



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC NO.: HOfs14060452  
HUD NO.: 05-14-1051-8

JAMAL L. SMITH, in his official capacity as  
EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,  
Complainant,  
v.

HANNAH STEWART,  
THE FIELDS APARTMENTS, and  
INLAND AMERICAN COMMUNITIES  
Respondents.

NOTICE OF FINDING and  
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On June 13, 2014, [REDACTED] ("Complainants") filed a Complaint with the Commission against Hannah Stewart, The Fields Apartments, and Inland American Communities ("Respondents") alleging unlawful discriminatory housing practices on the basis of familial status in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*), and the Federal Fair Housing Act (42 U.S.C. § 3601 *et seq.*) The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint.

A Commission investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the final investigative report and a full review of the relevant files and records, the Executive Director now finds the following:

There are several issues pending before the Commission. The first issue before the Commission is whether Respondent refused to renew Complainants' lease because of their familial status. In order to prevail, Complainants must show that: 1) they are members of a protected class; 2) they were qualified, ready, willing, and able to continue their tenancy with Respondent; 3) they made a bona fide offer to continue their tenancy with Respondent; 4) Respondent refused Complainants' offer; and 5) Respondent treated similarly-situated tenants without children



more favorably under similar circumstances. It is evident that Complainants are members of a protected class because they reside with two children under the age of 18; further, it is clear that they are qualified, ready, willing, and able to continue their tenancy with Respondent. Moreover, it is evident that Complainants made a bona fide offer to continue residing with Respondent; however, Respondent refused Complainants' offer and treated similarly-situated tenants without children more favorably under similar circumstances.

By way of background, [REDACTED] first signed a lease with Respondent on or about July 28, 2011. The lease was subsequently renewed on two distinct occasions, or about August 1, 2012 and later, on or about July 1, 2013. The lease at issue originated on or about July 1, 2013 with a termination date of June 30, 2014. At all times relevant to the lease, Mr. Rouse lived in a two-bedroom unit; however, during the course of his tenancy with Respondent, Mr. Rouse married and had a child. As such, his spouse, minor stepdaughter, and their minor child resided with him in a two-bedroom, approximately 1100 square footage unit.

On or about October 28, 2013, Respondent revised its rental policy in several ways. Specifically, the policy imposed the following occupancy requirements: "maximum occupancy per apartment: one bedroom—1; two bedroom—2; three bedroom—3; four bedroom—4." The policy further provided that "an additional minor child being twelve (12) months of age or less (newborn) who occupies the same bedroom with the child's parent, guardian, legal custodian, or person applying for that status during the term of the lease, will be permitted in addition to the number of occupants defined in the paragraphs above." Additionally, while the written revision provided that rental applications were to be completed by each occupant over the age of 18, Complainants assert and Respondent admits that it required each occupant "over the age of one" to have a lease agreement under the new policy. Shortly thereafter, on or about November 4, 2013, Respondent sent Complainants an email alerting them that "going forward...new monthly rates will be per bedroom (rather than for an entire apartment or home.) This means that each occupant over the age of 1 will be required to be on a separate lease." As a result of these changes, Complainants sent Respondent several emails inquiring about the policies and its effects on his family. Specifically, after one such email on or about February 13, 2014, Respondent responded "you are welcome to renew through July 31, 2014 for the same rate you are paying. If you would like to stay past this date, you would have to transfer to a 3 bedroom apartment as the maximum occupancy for your apartment has changed to two occupants." While Complainants' monthly rent for the two-bedroom unit they occupied was \$936, a three-bedroom unit would cost \$1410 per month, a difference in excess of \$470.00 per month.

On or about March 31, 2014, Complainants received an email notifying them that "March 31<sup>st</sup> is the final deadline to renew your space for the 2014-2015 school year! If you have not renewed by close of business on Monday, March 31<sup>st</sup>, your space will be assigned to a resident on our waitlist." Ultimately, Complainants vacated their apartment in May 2014 and moved to North Carolina.

Despite Respondent's assertions, there is sufficient evidence to believe that Respondent violated the fair housing laws as alleged. Complainant lived in his two-bedroom unit without issue for several years until Respondent modified its occupancy policy. While the Commission acknowledges that no evidence has been provided or uncovered during the course of the investigation to substantiate when Complainant alerted Respondent that his spouse and two minor children moved into the residence, this is immaterial as Respondent clearly refused to renew his lease for a two-bedroom unit simply because of the number of individuals living in his 1100 square foot home. As such and based upon the aforementioned, reasonable cause exists to believe the fair housing laws were violated as alleged.

Similarly, the second issue before the Commission is whether Respondent subjected Complainant and other families with children to discriminatory terms and conditions because of their familial status. This correlates to the third and forth issues before the Commission: whether Respondent subjected Complainant to discriminatory statements and whether Respondent subjected Complainant to unlawful steering. Simply stated, it is apparent that Respondent subjected Complainants to less favorably terms, discriminatory statements, and unlawful steering because of their familial status. As mentioned above, Respondent's "Statement of Rental Policy" imposing a strict one person per bedroom occupancy requirement with exceptions only for children 1) aged newborn through 12 months and 2) who occupied the same bedroom as their parent or legal guardian has a disproportionately adverse impact on Complainants and families with children generally. As a general rule, factors such as the size of the bedrooms and the overall unit, the age of the children, the unit configuration, and other criteria must be taken into effect before imposing occupancy standards. In this instance, it is unreasonable to assert that two children under the age of five and two adults cannot live in an 1100 square foot residence. Ironically, Respondent steered Complainants to a three-bedroom unit, which, according to their own policy, would be in contravention of its one person per bedroom rule. Moreover, Respondent's policy requiring all occupants over the age of one to have separate lease agreements is unreasonable and unfairly excludes families with children. Notably, Respondent has admitted that several families with children have moved after the imposition of their new occupancy requirements. It is important to note that although Respondent seems to imply that the residence in question is a "student community," such a designation is not exempt from the Fair Housing Act or applicable laws. As such and based upon the aforementioned, reasonable cause exists to believe that violations of the laws occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondents, Complainant, or an aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and

Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, the Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. William Rouse, Emily Rouse, and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If at any time following service of this charge Respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

November 19, 2014

Date

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Jamal L. Smith  
Executive Director  
Indiana Civil Rights Commission